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In Re Application of :
CALLENS et al. :
Application No.: 10/551,723 : DECISION
PCT No.: PCT/EP04/03688 :
Int. Filing Date: 02 April 2004 :
Priority Date: 04 April 2003 :
Attorney Docket No.: 05129-00104-US :
For: PROCESS FOR PRODUCING ENANTIOPURE :
B-AMINO ACID DERIVATIVES :

This is a decision on applicant's "REQUEST FOR CORRECTED FILING RECEIPT" filed in the United States Patent and Trademark Office (USPTO) on 05 July 2006.

On 02 April 2004, applicant filed international application No. PCT/EP04/03688 which claimed a priority date of 04 April 2003 and which designated the United States. On 03 October 2006, before the expiration of the thirty month period, applicant filed, *inter alia*, a transmittal letter for entry into the national stage and the basic national stage filing fee.

On 14 February 2006, applicants filed an executed declaration.

On 19 June 2006, a Notification of Acceptance Under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/903) was mailed indicating a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 14 February 2006.

On 05 July 2006, applicant filed the instant petition. Applicant contends the U.S. national stage papers were filed in the USPTO on 03 October 2005 along with an executed declaration under PCT Rule 4.17. Applicant urges that the Form PCT/DO/EO/903 be vacated and that a new Notification of Acceptance and corrected filing receipt be issued indicating a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 03 October 2005.

DISCUSSION

A review of the USPTO records indicates that the national stage filing of international application PCT/EP04/03688 comprising of PTO-1390, Preliminary Amendment, and declaration under PCT Rule 4.17, among other documents, were deposited with the USPTO on 03 October 2005. A review of the finance records indicates that the national stage fee was also paid on 03 October 2005. The papers are assigned U.S. serial number 10/551,723.

The declaration, filed under PCT Rule 4.17 and submitted on 03 October 2005, does not identify the application to which it is directed. Moreover, the declaration was executed by each inventor on 7 May 2004. This date is after the international filing date and thus, it can be concluded that the executed declaration did not accompany the filing of the international application. This declaration was not acceptable and did not meet the requirements of 37 CFR 1.497(a) and (b). The declaration submitted on 14 February 2006 did meet the requirements of 37 CFR 1.497(a) and (b).

The Notification of Acceptance mailed on 19 June 2006 was issued bearing the correct 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 14 February 2006.

CONCLUSION

For the reasons set forth above, applicant's request for a corrected filing receipt and request to vacate the Notification of Acceptance is **DISMISSED without prejudice.**

The Notification of Acceptance (Form PCT/DO/EO/903) mailed on 19 June 2006 remains in effect.

The application will be forwarded to Art Unit 1616 for examination in due course.



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